

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Revision of the Commission's Rules )  
To Ensure Compatibility with )  
Enhanced 911 Emergency Calling Systems )

CC Docket No. 94-102  
DA 99-1049

To: Chief, Wireless Telecommunications Bureau

**REPLY COMMENTS OF  
OMNIPOINT COMMUNICATIONS, INC.**

Omnipoint Communications, Inc. ("Omnipoint"), by its attorneys, and on behalf of Omnipoint's subsidiaries and affiliates, hereby replies to the comments filed in response to the Commission's Phase II ALI Public Notice seeking targeted comment on issues related to Phase II Automatic Location Identification ("ALI") standards for handset-based approaches.<sup>1</sup>

**I. A Network-Based Solution Best Serves the Commission's Goals**

In its initial comments, Omnipoint noted its preference for network-based ALI because this approach reaches all users immediately, avoids creating a lower class of emergency service, provides full service to roamers, and satisfies current requirements concerning service to un-subscribed callers. For these reasons, Omnipoint cannot support the SnapTrack and APCO proposals which the Commission requested comment on in the Phase II ALI Public Notice. In view of the comments filed in response to the Phase II ALI Public Notice and the comments of participants at the June 28, 1999 Technical Roundtable on implementation of ALI for enhanced

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<sup>1</sup> Public Notice, "Wireless Telecommunications Bureau Requests Targeted Comment on Wireless E911 Automatic Location Identification Requirements," DA 99-1049, released June 1, 1999 (the "Phase II ALI Public Notice").

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911 technologies, Omnipoint continues to believe that the public safety goals underlying the E-911 rules, including the “rapid implementation of the technologies needed to bring emergency assistance to wireless callers throughout the United States,”<sup>2</sup> will best be served by network-based ALI technology.

Omnipoint does not disagree with claims that handset-based technologies may meet the technical requirements of Phase II ALI implementation. As several commenters have noted,<sup>3</sup> the current rules, which are intended to be technologically neutral, do not foreclose the use of such technologies to achieve Phase II ALI compliance. However, the record in this proceeding reflects the reality that network-based technologies offer important advantages to consumers, carriers, and Public Safety Answering Points (“PSAPs”), and that no waivers of the October 1, 2001 implementation deadline are necessary in order to deliver those advantages to consumers.<sup>4</sup>

First and foremost, a network-based solution allows carriers to reach all subscribers immediately and simultaneously. In contrast, handset-based solutions require upgrades to customer equipment that are likely to significantly delay Phase II implementation. Indeed, it is this likelihood that has generated interest in waivers of the Phase II implementation deadline. Emergency service will not be consistent because handsets will be upgraded only when the consumer chooses, and some percentage of handsets may never be upgraded. Even the most optimistic estimates of handset churn acknowledge that a system that relies on the consumer to

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<sup>2</sup> Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Memorandum Opinion and Order, 12 FCC Rcd 22665, ¶ 122 (1997).

<sup>3</sup> See, e.g., KSI Inc. Comments at 5; U.S. Wireless Corporation Comments at 4.

<sup>4</sup> Several commenters concur that waivers of the Phase II compliance deadline are unnecessary or unjustified. See National Emergency Number Association Comments at 4-5; Metrocom.com Comments at 3; KSI Inc. Comments at

*(footnote continued to next page)*

replace his or her handset will be ineffective at best.<sup>5</sup> Moreover, a phased-in approach for handset replacement as advocated by some parties<sup>6</sup> offers little assurance that consumers will receive the benefits of E-911 service.

Second, a network solution allows carriers to provide the same level of service to all roamers, including international roamers. A handset-based solution will create a lower class of emergency service that disadvantages roamers<sup>7</sup> and cannot guarantee compliance with existing mandates. A carrier that has implemented a network-based ALI technology may be forced to reconsider the continuation of its roaming agreements with carriers who have implemented a handset technology, because of concerns by the network-based carrier over the lower level of emergency service its subscribers will receive while roaming. These concerns would continue even after the introduction of ALI-capable handsets because consumers cannot be required to purchase new handsets simply to access E-911 service while roaming.

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*(footnote continued from previous page)*

5; Radix Technologies, Inc. Comments at 3; TruePosition, Inc. Comments at 2; U.S. Wireless Corporation Comments at 4; Texas Advisory Commission on State Emergency Communications, et al. Comments at 4.

<sup>5</sup> See, e.g., Sprint Spectrum L.P. Comments at 6 (asserting that “most consumers” will purchase new handsets in the next five years, but also conceding that a carrier cannot “control the behavior of its customers”). However, as TruePosition demonstrates, even if certain assumptions about the rate of handset churn are accurate, three years after the Phase II deadline approximately 31% of CMRS users still would not have ALI-enabled units. TruePosition, Inc. Comments at 7.

<sup>6</sup> See AirTouch Communications, Inc. Comments at 12; Ameritech Comments at 3-4; Association of Public-Safety Communications Officials-International, Inc. (“APCO”) Comments. Notably, among the commenters, only APCO and Aerial Communications appear to favor any mandatory penetration benchmarks.

<sup>7</sup> See Radix Technologies, Inc. Comments at 4.; Texas Advisory Commission on State Emergency Communications, et al. Comments at 3.

Third, the cost of handset-based technologies may be higher than suggested by their proponents.<sup>8</sup> While the cost of computer chips may decrease over time, such costs are only a portion of the total expense involved. The lack of a universal handset standard will require multiple upgrades to each handset in order to assure consistent emergency service. Ultimately, manufacturers and carriers will incur additional expenses for development, marketing, labor, distribution, and inventory that could result in higher handset costs for consumers. Consumers could also be faced with the expense of replacing their existing car kits and other accessories if the ALI-compliance handsets are not backward compatible to such equipment. These additional expenses must be considered when handset replacement costs are tallied.

Finally, a network solution does not require the Commission to consider numerous requests for waiver of the Phase II implementation deadline. Indeed, a network-based technology standard for GSM has been approved.<sup>9</sup> In contrast, standards development is still underway for handset-based ALI technologies. This process is not likely to be completed before the October 1, 2001 Phase II deadline.<sup>10</sup> In the interim, and even after the deadline, the Commission could be forced to respond on an ad hoc basis to additional waiver requests.

In sum, network-based ALI technologies best serve the Commission's goals by providing improved emergency service to all users in a manner consistent with current FCC requirements.

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<sup>8</sup> See, e.g., Wireless Consumers Alliance Comments at 4.

<sup>9</sup> Omnipoint notes that on June 24 1999, UL-TOA standards were approved for the upcoming GSM Release 98.

<sup>10</sup> See U.S. Wireless Corporation Comments at 4.

## **II. The Commission Should Not Mandate Handset-Based ALI Technology**

The Wireless Consumers Alliance, Inc. (“WCA”) has proposed that the Commission mandate a handset-based solution, by requiring that a specific technology (“enhanced GPS” or “e-GPS”) be installed in all new handsets and that all wireless carriers provide e-GPS service. WCA also has proposed eliminating the requirement in Section 20.18(f) of the Commission’s rules that makes a request by a PSAP for Phase II service a prerequisite to a carrier’s obligations under Section 20.18(e).<sup>11</sup>

WCA’s proposals are squarely at odds with the Commission’s goals and policies. The mandate that WCA seeks is not technologically neutral and therefore is inconsistent with the existing rule – which does not preclude any viable technology solution – and with the Commission’s express statements on neutrality.<sup>12</sup>

WCA’s proposal also is fundamentally flawed by its inaccurate assertions about the handset market. According to WCA, “there is little cost associated with the addition of GPS capability to handsets,” which “should lead to the early deployment of this technology.”<sup>13</sup> WCA offers no factual support for these statements. WCA unreasonably trivializes the costs of implementing the e-GPS solution and assumes that manufacturers and carriers will pay them. In short, WCA’s proposal to mandate a handset-based solution is ultimately unworkable.<sup>14</sup>

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<sup>11</sup> WCA Comments at 1-2 and Attachment.

<sup>12</sup> See Review of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Order on Reconsideration, 12 FCC Rcd 22665, 22725 (¶ 124) (1997).

<sup>13</sup> WCA Comments at 4.

<sup>14</sup> For the same reasons, Omnipoint opposes the request of the King County E911 Program (Comments at 4) to mandate the retrofitting of handsets to incorporate handset-based ALI technologies.

### **III. Waivers Are Appropriate Only If They Do Not Undermine Technological Neutrality**

The premise of different compliance standards for different technologies that is inherent in the APCO and SnapTrack proposals is fundamentally at odds with the Commission's policy of remaining neutral regarding the technology choices of wireless carriers. If granted, waivers of the Phase II E-911 deadline that provide additional time to implement a handset-based ALI technology will benefit only those carriers who have chosen handset-based ALI solutions. The Commission must address this disparity before it grants any Phase II waivers. In particular, the Commission should avoid having two sets of E-911 compliance standards, which would be inconsistent with the policy of technological neutrality and would create substantial confusion among carriers and consumers. The Commission therefore must, if it grants any waiver based on a specific technology, extend the deadline for all carriers, regardless of technology.

### **IV. Cost Recovery and Liability Issues are Essential Elements of Wireless 9-1-1 Implementation**

Wireless carrier cost recovery is a critical component of the E-911 issue. Landline carriers typically are reimbursed for the full cost of designing, deploying and maintaining landline 911 systems. Wireless carriers deserve the same consideration. Anything less would place wireless carriers at a distinct disadvantage and put the Commission's goal of competition between landline and wireless communications at risk.

As CTIA has requested,<sup>15</sup> the Commission also must address liability issues. Consistent with technological neutrality, and with the Commission's goal of promoting wireless service as a viable competitor to wireline systems, CMRS carriers must be provided the same limitations on

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<sup>15</sup> Cellular Telephone Industry Association Comments at 2.

liability enjoyed by wireline carriers. In addition, liability concerns surrounding the creation of a lower class of emergency service if waivers are granted to permit certain CMRS carriers additional time to implement handset-based solutions must be addressed immediately in order to avoid additional delay and the Commission must clarify the respective obligations of compliant and non-compliant operators.

**V. The Rules Must Acknowledge that ALI Accuracy  
Is Subject to Factors Beyond the Control of Carriers**

In its comments, Aerial recommends that the Commission modify Section 20.18(e) in order to frame ALI accuracy measurements in terms of measurable coverage and service situations.<sup>16</sup> Omnipoint agrees. Whatever methodology for measuring ALI accuracy is adopted will be subject to distortion by factors beyond the control of carriers. In particular, potential location problems will exist along the boundaries of CMRS service areas due to the availability of fewer sites from which to determine location. Carriers also may be prohibited by state and local zoning regulations from installing facilities necessary to determine location. Any evaluation of carrier compliance should take these factors into account.

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<sup>16</sup> Aerial Communications, Inc. Comments at 6-7.

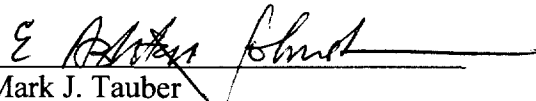
## **VI. Conclusion**

WHEREFORE, the foregoing premises having been duly considered, Omnipoint respectfully requests that the Commission proceed with E-911 Phase II rules and policies consistent with the foregoing.

Respectfully submitted,

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July 2, 1999

## CERTIFICATE OF SERVICE

I, Jennifer Short, hereby certify that on this 2<sup>nd</sup> day of July, 1999, copies of the foregoing "Reply Comments" of Omnipoint Communications, Inc. were sent by first class United States mail, postage prepaid, or delivered by hand (\*) to the following:

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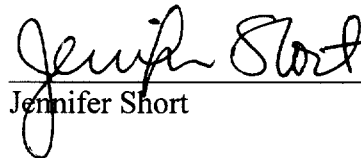
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